IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 26984 of 2007(K)

OS.119/2001 of II ADDL.M.C., ERNAKULAM

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PETITIONER:

P.K.KUMARA MENON, S/O.KRISHNA MENON,
AGED 76, NILAKUNNATH HOUSE, PERUMBALAM P.O.,
CHERTHALA TALUK, ALAPPUZHA.

BY ADV. SRI.K.C.CHARLES

RESPONDENTS:

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1. LEELAMMA (DIED)

2. SMT.PADMAKUMARI,
WIFE OF SIDDHARTHA KAIMA, AGED ABOUT 33,
PULPARAYIL HOUSE, PANANGAD, KUMBALAM VILLAGE,
KANAYANNUR TALUK.

3. SUNILKUMAR, S/O.LATE BALAKRISHNAN,
AGED ABOUT 28, PULPARAYIL HOUSE,
PANANGAD, KUMBALAM VILLAGE, KANAYANNUR TALUK.

4. P.P.RAJENDRAN, S/O.P.KRISHNAN, AGED
53, COCHIN PORT TRUST EMPLOYEE, RESIDING AT
COCHIN PORT TRUST, QUARTER NO.E/4/3, WILLINGTON
ISLAND, KOCHI-3.

5. PREETHI RAJENDRAN, WIFE OF RAJENDRAN,
AGED 42, RESIDING AT COCHIN PORT TRUST,
QUARTER NO.E/4/3, WILLINGTON ISLAND, KOCHI-3.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.26984 of 2007

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Dated this the 11th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside the order dated 9.8.2007 of the Munsiff's Court, Ernakulam. Learned counsel for the writ petitioner submits that the amendment application was disposed of directing the plaintiff to take out a Commission for ascertaining the correct value of the property invoking the power under Section 19 of the Court Fees Act. I am afraid that if that is the order, the learned Munsiff has erred. Even as per the proposed amendment, the value of the property comes to more than Rs.3 lakhs and therefore, if the amendment application is allowed, the court will not have jurisdiction except for the purpose of returning the plaint to the plaintiff for presentation before appropriate court.

2. Question of ascertaining the correctness of the market value of the property arises only when the amendment

application is allowed. So here is a situation where if amendment application is allowed, the court will have no jurisdiction and cannot insist for an enquiry into the correctness of the court fee without amendment of the plaint.

3. Therefore, I direct the learned Munsiff to allow the amendment application and return the plaint for proper presentation before appropriate court. I make clear that the question of correctness of the court fee can be considered by the court where the plaint is represented after the defendants enter appearance as contemplated under the Provisions of the Court Fees Act.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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